

**IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF TEXAS  
TEXARKANA DIVISION**

**DELLA LOU GRIFFIN**

**Plaintiff**

**v.**

**DIRECTOR, TDCJ-CID**

**Defendant**

§  
§  
§  
§  
§  
§  
§  
§

**Case No. 5:21cv53-RWS-JBB**

**ORDER**

Della Lou Griffin, proceeding *pro se*, filed this petition for writ of habeas corpus pursuant to 28 U.S.C. § 2254. Docket No. 1. The Court referred this matter to the Honorable J. Boone Baxter, United States Magistrate Judge, for consideration pursuant to 28 U.S.C. § 636.

Petitioner challenges four convictions for sexual assault of a child and a conviction for aggravated sexual assault of a child. *See id.* at 13. The Magistrate Judge has submitted an August 20, 2024 Report and Recommendation of United States Magistrate Judge recommending the petition be denied. Docket No. 20 at 12.

Petitioner acknowledged receipt of the Report on August 26, 2024 and again on August 27, 2024.<sup>1</sup> Docket Nos. 21, 22. No objection to the Report has been filed. As no objection has been filed, the Court reviews the Magistrate Judge's findings of fact and conclusions of law for plain error. *Rodriguez v. Bowen*, 857 F.2d 276, 276-77 (5th Cir. 1988).

The Court has received and considered the Report and Recommendation of United States Magistrate Judge, along with the record, pleadings and all available evidence. The Court agrees

---

<sup>1</sup> A copy of the August 20, 2024 Report was sent to Petitioner at her last known address via regular mail and also via certified mail return receipt requested.

with the Magistrate Judge's findings and conclusions. *See Martin v. Driskell*, No. 6:19-CV-311-JDK-KNM, 2023 WL 5827586, at \*1 (E.D. Tex. Sept. 7, 2023) (citing *United States v. Wilson*, 864 F.2d 1219, 1221 (5th Cir. 1989)) (where no objections to a Magistrate Judge's Report are filed, the standard of review is "clearly erroneous, abuse of discretion and contrary to law"). Petitioner's grounds for review do not provide her with a basis for relief in this proceeding.

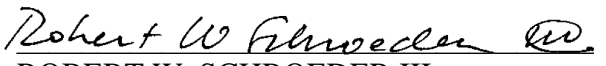
Additionally, the Court finds that Petitioner is not entitled to a certificate of appealability. An appeal from a judgment denying habeas relief may not proceed unless a judge issues a certificate of appealability. *See* U.S.C. § 2253. The standard for a certificate of appealability requires the petitioner to make a substantial showing of the denial of a federal constitutional right. *See Slack v. McDaniel*, 529 U.S. 473, 483-84 (2000); *Elizalde v. Dretke*, 362 F.3d 323, 328 (5th Cir. 2004). To make a substantial showing, the petitioner need not demonstrate she would prevail on the merits. Rather, she must demonstrate the issues are subject to debate among jurists of reason, that a court could resolve the issues in a different manner, or that the questions raised are worthy of encouragement to proceed further. *See Slack*, 529 U.S. at 483-84. Any doubt regarding whether to grant a certificate of appealability should be resolved in favor of the petitioner. *See Miller v. Johnson*, 200 F.3d 274, 280-81 (5th Cir. 2000).

In this case, Petitioner has not shown that the issue of whether her petition is meritorious is subject to debate among jurists of reason. Nor has she shown that a court could resolve the issues in a different manner, or that the questions presented are worthy of encouragement to proceed further. Therefore, Petitioner has failed to make a sufficient showing to merit the issuance of a certificate of appealability. Accordingly, a certificate of appealability will not be issued. Accordingly, it is

**ORDERED** that the Report of the Magistrate Judge (Docket No. 20) is **ADOPTED** as the opinion of the District Court. It is further

**ORDERED** that this petition for writ of habeas corpus is **DENIED**. An appropriate Final Judgment shall be entered.

**So ORDERED and SIGNED this 20th day of September, 2024.**

  
ROBERT W. SCHROEDER III  
UNITED STATES DISTRICT JUDGE